

## **Initial Statement of Reasons**

### **List of forms to be incorporated by reference:**

- Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Beginning Farmer Bond Program (5-12-14).
- Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) (~~41-42-13~~ 7-22-14)
- Non-Competitive Application For Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) (~~41-42-13~~ 7-22-14)
- Competitive Application For An Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) Universal Application Addendum (~~41-42-13~~ 7-22-14)
- Non-Competitive Application For AN Allocation Of The State Ceiling On Qualified Private Activity Bonds For A Qualified Residential Rental Project (QRRP) Universal Application Addendum (~~41-42-13~~ 7-22-14)
- Application for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Small-Issue Industrial Development Bond Project (IDB) (~~41-42-13~~ 7-22-14)
- Annual Certificate of Compliance Form (5-21-14)
- Annual Applicant Public Benefits and Ongoing Compliance Self-Certification “Self-Certification” (~~41-42-13~~ 5-21-14)
- Report Of Action Taken Regarding The Making Of A Carryforward Election And The Issuance Of Private Activity Bonds (~~40-4-14~~ 7-22-14)
- Report Of Action Taken Regarding The Issuance Of Private Activity Bonds (~~40-4-14~~ 7-22-14)

The Committee is authorized to adopt regulations relating to an allocation system to administer the state unified volume ceiling as emergency regulations (California Government Code 8869.94).

These Regulations primarily address the statutory mandate, Section 8869.84(c) of the Code, to create an allocation system to administer the state unified volume ceiling. The proposed allocation system will provide tax exempt private activity bond allocation (state ceiling) to state and local agencies, and promote the following: housing for lower income families and individuals; and preserving and rehabilitating existing governmental assisted housing for lower income families and individuals. More specifically, the proposed regulations will allow applicants expanded access to the available point categories and ensure that compliance of the regulation requirements is monitored by every CDLAC applicant.

The objective of these Proposed Regulations is to ensure applicants take full advantage of the Qualified Residential Rental Program application process and adhere to the compliance monitoring requirements, thus creating more low income housing developments for residents of California and to provide public benefits to the residents of these projects. (Government Code 11346.5(a)(3)(C).

CDLAC has conducted an evaluation of existing state regulations and has determined that the Proposed Regulations are not inconsistent or incompatible with existing state regulations. (California Government Code 11346.5(a)(3)(D).

Chapter 2, Article 1, Section 5000 and 5370. Definitions.

Necessity: The term “Special Designation Area” is being deleted. The term “Special Designation Area” and its related scoring category are being removed due to the dissolution of Enterprise Zones, Manufacturing Enhancement Areas, Targeted Tax areas, Empowerment Zones, Enterprise Communities and Renewal Communities. Communities with low income levels, high poverty and/or high unemployment rates will remain advantaged through other scoring categories found in the evaluation criteria of the program. Also, under the Small Issue Industrial Development Bond Program, the maximum score is being reduced to reflect the elimination of the Special Designation Area point category.

Chapter 1, Article 11, Section 5144. Reporting Requirements.

Necessity: Proposed language clarifies that Applicant’s must complete and submit the updated Annual Applicant Public Benefits and On-going Compliance Self Certification dated 5-21-14.

Chapter 2, Article 1, Section 5170. Definitions

Necessity: Proposed language clarifies that Applicant’s applying to CDLAC for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Qualified Residential Rental Project must use one of the updated applications dated 7-22-14.

Chapter 2, Article 4, Section 5200. Minimum Requirements.

Necessity: For clarity purposes, the proposed language makes a minor correction in reference to a section of the Market Study guidelines that must be met as required by the California Tax Credit Allocation Committee.

Chapter 2, Article 5, Section 5205. Minimum Requirements.

Necessity: In May of 2014, the California Energy Commission’s unexpected delay in implementing the new Title 24 standards made establishing improvement percentages beyond 2014 standards difficult. Therefore, CDLAC and the Tax Credit Allocation Committee proposed new standards against the existing (2008 version) Title 24 code. Effective July 10, 2014, the new CDLAC minimum building standard (still measured against the 2008 Title 24 code) was increased by 15 percent (15%). This means that the basic threshold standard was increased to 30 percent (30%) better than the 2008 code. Bear in mind that the Title 24 code itself, as of July 1, 2014, is approximately 22 percent (22%) more rigorous than the 2008 standard and in essence, CDLAC has reduced the spread required over the new Title 24 standard taking effect July 1, 2014. This approach will employ a “glide path” to the California Energy Commission’s goal of zero net energy residential development by 2020. That is, the required spreads over Title 24 will decline as the Title 24 code itself gets more rigorous. Finally, as the code itself arrives at a zero

net energy standard, CDLAC will no longer seek an improvement beyond code. This proposed regulation change assures CDLAC's continued commitment to long-term energy efficiency in its affordable housing portfolio.

Chapter 2, Article 8, Section 5230. Evaluation Criteria.

(e)

Necessity: The proposed language clarifies that when family comparables are used in addition to senior comparables (outside the 1-mile radius) for a Senior project application, points will be calculated using the family matrices.

(j)(2)(E)

Necessity: The proposed language clarifies two and one-half (2 ½) points will be awarded to Projects located within 1/2 mile of a hospital (for Rural projects 1 mile). To ensure public benefit points are provided to projects that provide low and moderate income residents accessible medical services in their immediate area, the proposed language requires that medical clinics accept Medi-Cal and Medicare payments, or Health Care for the Homeless for projects housing homeless populations, or have an equally comprehensive subsidy program for low-income patients. Previously, only Senior Projects qualified for points under this category. The omitted language will enable all applicants to receive points for these site amenities in close proximity of age restricted and family projects. This realigns CDLAC regulations with the Tax Credit Allocation Committee's regulations.

(l)(1)(B)

Necessity: The proposed language lengthens the permissible distances for rural off-site services that may serve as an alternative to on-site services. To both recognize distance limitations in rural communities and encourage free services to these tenants, Rural projects will now have the ability to receive points for services within an extended maximum distance of 1 ½ miles. This realigns CDLAC regulations with the Tax Credit Allocation Committee's regulations.

(n)(1)(A), (n)(1)(B), (n)(1)(C), and (n)(1)(D)

Necessity: For waiver purposes, the proposed language will require Applicants to demonstrate that the failure to fully utilize the committed public subsidies or Taxable Debt for which points were awarded in connection with the prior Allocation, to issue Bonds, to spend the proceeds of Bonds issued pursuant to an Allocation in full or to comply with any provision of the Committee Resolution was entirely unforeseen. The Committee will only consider waivers where the failure was both entirely unforeseen and outside the control of the Project Sponsor.

(n)(1)(B)

Necessity: To eliminate confusion in regards to when assessment of negative points against a Project Sponsor begins and ends, the proposed language clarifies the period in which the assessment of negative points against a Project Sponsor begins and ends.

Chapter 2, Article 9, Section 5240. Supplemental Allocation Process.

Necessity: Proposed language clarifies the updated documentation needed when applying for a Supplemental Allocation request. The additional documents are necessary to confirm the revised total development costs of the project.

Chapter 2, Article 11, Section 5255. Application Requirements.

Necessity: The proposed language requires that proof of a HUD Firm Commitment Application submittal will be due within thirty (30) days of the CDLAC Forward Commitment Approval. To encourage Applicants to apply to HUD immediately following the issuance of a CDLAC forward commitment approval, the proposed language requires that proof of the HUD Firm Commitment Application submittal will be due within thirty (30) days of the CDLAC Forward Commitment Approval. This requirement will ensure that staff is only reviewing forward commitment requests that will be ready to work with a MAP lender to proceed with a HUD Firm Commitment Application submission immediately after receiving CDLAC's forward commitment approval.

Chapter 6, Article 1, Section 5350. Definitions.

Necessity: The proposed language clarifies that Applicant's applying to CDLAC for an Allocation of the State Ceiling on Qualified Private Activity Bonds for a Small-Issue Industrial Development Bond Project must use one of the updated application dated 7-22-14.

Chapter 12, Article 1, Section 5600. Definitions.

Necessity: Adopts term definitions under the Beginning Farmer Bond Program.

Chapter 12, Article 2, Section 5610. Minimum Requirements.

Necessity: The minimum requirements are designed to limit the beneficiaries of program proceeds to individuals having the greatest need for reduced rate financing for agricultural purposes while ensuring that program proceeds benefit the California economy and agriculture by limiting participation to California residents for agricultural activities within California. In addition, the minimum requirements are designed to maximize success and minimize fraud, waste and abuse by prohibiting program proceeds from being utilized by minors. To ensure that the underlying bonds maintain their tax-exempt status, the minimum requirements comport with the dictates of the IRC, which require that program beneficiaries meet the definition of a "First Time Farmer" pursuant to IRC §147(c)(2)(C) and be the principal operator of the farm pursuant to IRC § 147(c)(2)(B); limit the use of bond proceeds to eligible items pursuant to IRC §§ 144(a)(1), (11) and 147(c)(2) and restrict the use of eligible items obtained with bond proceeds to the beginning farmer and related individuals as set forth in IRC §§ 144(a)(3) and 147(a)(2) and as consistent with the aggregation rules set forth in IRC §147(c).

To proactively ensure that the bonds maintain their tax-exempt status, assurances are required that bond proceeds will be utilized in a manner consistent with the IRC. Lenders are in the best position to verify and ensure that bond proceeds are utilized to fund loans that are not inconsistent with the dictates of the IRC. The bond issuers, in turn, are in the best position to verify that their lender partners are adhering to Program requirements. Prior to receiving an

allocation, an issuer must certify that its partner lenders will comply with Program requirements designed to maintain the tax-exempt status of the underlying bonds.

The authority for the Beginning Farmer Bond Program, its scope and limitations arise from the IRC. Accordingly, the general references to the IRC in the minimum requirements are intended maximize the scope of the Program and to permit the Program to comply and conform to changes in the IRC with minimal additional rulemaking.

Chapter 12, Article 2, Section 5620. Scoring Criteria.

Necessity: Government Code 8869.84(c) states that “The committee shall prepare application forms and announce procedures for receipt and review of applications...”. For each Allocation round, applicants will be evaluated and ranked based on how effectively they will achieve the public benefits relative to their competitor’s performance. Past Program Performance and Actual Versus Proposed Average Interest Rate and Loan Amount rankings are designed to ensure that the maximum allocation is provided at the lowest interest rates.

In competitive allocation rounds, where demand exceeds available allocation, applicants will be awarded points for committing to developing and implementing programs designed to meet public benefits targets. Public benefits targets having the greatest importance to program success and providing the greatest public good have been allocated a greater amount of points.

Job creation has wide-ranging economic and social benefits for individuals, localities and the State. In recognition thereof, a maximum of 20 points will be awarded for full or part-time job creation. In recognition of the fact that agricultural employment is often seasonal and may not conform to a standard 40-hour work week, points will be awarded for full-time and part-time jobs.

Providing financial management, land management and/or resource management education and/or training will prepare beginning farmers to effectively and efficiently operate and manage their farming operations, thus increasing efficiency, reducing operating costs, minimizing environmental harm and decreasing the likelihood of loan defaults and bankruptcies. In recognition of the benefits of such education and/or training, a maximum of 15 points will be awarded to programs that provide technical assistance to beginning farmers.

Farming operations producing edible agricultural commodities for local sale and consumption reduces processing costs, transportation costs and related pollution, has a positive financial impact on local communities and provides healthy alternatives to goods containing artificial preservatives and processed foods. In recognition thereof, 9 points will be awarded to programs that establish or enhance farming operations producing edible agricultural commodities for sale and consumption within 200 miles of the farming operations financed by proceeds from a beginning farmer bond.

Family farms are a time-honored tradition in American society. Benefits include providing beginning farmers with a source of knowledge and training, strengthening of familial bonds, establishment of community farming traditions, encouragement of individual farm ownership

and the ability access and purchase ongoing, established farming operations. In recognition thereof, 3 points will be awarded for programs to acquire family farms by beginning farmers.

Workforce diversity and providing an avenue to farming for traditionally under-represented populations has positive financial and social benefits. The recognition and rewarding of military service is a widespread practice with positive financial and social benefits. Accordingly, 3 points will be awarded for programs designed to facilitate acquisition of farmland, breeding livestock equipment and/or equipment/machinery by veterans, women and/or under-represented populations.

Chapter 12, Article 2, Section 5630. Allocation Distribution.

Necessity: This section describes the method for allocation distribution. This section further sets a \$20,000,000 allocation per application cap in competitive years. The cap is to ensure adequate opportunity for multiple applicants from a diversity of communities across the state to receive an award of allocation. Standards for waiver of the cap are not specified because any waiver will be determined on a case-by-case basis upon unique facts that cannot presently be determined.

Chapter 12, Article 3, Section 5640. Reporting Requirements.

Necessity: This section states that an Applicant receiving an Allocation for the Beginning Farmer Program shall be responsible for tracking the information contained in its application and report that information to the Committee by March 1 of each calendar year. Reporting is required to ensure that committed public benefits are in fact being carried out by the Applicant. Public benefit information is also used as statistical data by the Committee.

**Other Matters Prescribed by Statutes Applicable  
to the Specific State Agency or to any  
Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Committee or to any specific regulation or class of regulation pursuant to Section 11346.1(b) or 11346.5(a)(4) of the California Government Code pertaining to the Emergency Regulations or to the Committee.

**Mandate on Local Agencies or School Districts**

The Executive Director of the Committee has determined that the Emergency Regulations do not impose a mandate on local agencies or school districts.